

# State of Colorado



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DATE: May 31, 2005

TO: Directly Affected Employees through Agency HR Administrators  
American Federation of State, County, Municipal Employees  
Colorado Association of Public Employees  
Colorado Federation of Public Employees  
Colorado State Patrol Protective Association

FROM: Karen Fassler, Total Compensation Manager

SUBJECT: **Official Notice of Proposed Change - JEL 05-04**

JEL 05-04 has been released. This proposal contains the second set of changes to the Administrative Law Judge class series that was not included in the previous notice, JEL 05-03. Implementation will be July 1, 2005. There is no fiscal impact from this study. Please share this information with your appointing authorities, affected employees, budget officers, and any others in your department or institution.

Statute requires that directly affected employees and employee organizations be notified of proposed changes to the system prior to changes being finalized and implemented. By Personnel Director's Administrative Procedure P-2-3 and Personnel Board Rule R-1-7, notice to employees of these proposed changes, including any class placement, shall be provided by appointing authorities. Agency human resource administrators are responsible for providing this information to their respective appointing authorities. **APPOINTING AUTHORITIES ARE RESPONSIBLE FOR DISTRIBUTING THIS INFORMATION TO DIRECTLY AFFECTED EMPLOYEES BEFORE THE DEADLINE SPECIFIED BELOW.**

No class description is final until approved for implementation by the state personnel director. Employees should contact their agency human resource offices for further information. Information is also available on the web at [www.colorado.gov/dpa/dhr](http://www.colorado.gov/dpa/dhr).

**The following public meeting is scheduled to fulfill the department's "meet and confer" obligation.**

Monday, June 6<sup>th</sup>, 2005, at 3:00 pm.  
1313 Sherman St. Room 220, Denver.

All meet and confer activities must be concluded by **Thursday, June 9<sup>th</sup>, 2005**, in order to be considered before the study is finalized and implemented. For additional information, please contact Travis Engelhardt or Don Fowler at 303-866-2391. Written comments may be faxed to 303-866-2458, emailed to [don.fowler@state.co.us](mailto:don.fowler@state.co.us) or mailed to the following address before June 9, 2005.

ATTN: Travis Engelhardt/Don Fowler  
Department of Personnel & Administration  
1313 Sherman, Room 122  
Denver, CO 80203

## SUMMARY OF SYSTEM CHANGES

JE Letter #: 05-04  
Date of Letter: 5/31/05

### Job Evaluation System

\* P = proposed; F = final (only F is to be entered into EMPL and ADS)

P or F*	CD Changes			Current Class		New Class		Occ Grp		Grade		Pay Diff.		Effective Date
	New	Rev	Abol	Code	Title (limit 25 characters)	Code	Title (limit 25 characters)	From	To	From	To	From	To	
P	X					H5L1TX	Admin Law Judge I	PS	PS		H57	0	0	7/1/05
P		X		H5A2TX	Admin Law Judge I	H5L2XX	Admin Law Judge II	PS	PS	H57	H58	0	0	7/1/05
P		X		H5A3XX	Admin Law Judge II	H5L2XX	Admin Law Judge II	PS	PS	H58	H58	0	0	7/1/05
P		X		H5A4XX	Admin Law Judge III	H5L3XX	Admin Law Judge III	PS	PS	H59	H59	0	0	7/1/05
P			X	H5A5XX	Admin Law Judge IV		Abolish							

ISSUING AUTHORITY: Colorado Department of Personnel and Administration Rev. 1/2/05



# **SYSTEM MAINTENANCE STUDY**

## **NARRATIVE REPORT -- PROPOSED CHANGES ON PAY GRADES AND CLASS PLACEMENTS**

### **ADMINISTRATIVE LAW JUDGE**

**Class Code H5L1TX through H5L3XX**

**Conducted Fiscal Year 2004-2005**

#### **BACKGROUND AND PURPOSE OF STUDY**

This system-wide study is part of the state personnel director's statutory responsibility, C.R.S. 24-50-104(1)(b), for maintaining and revising the system of classes covering all positions in the state personnel system. Such maintenance may include the assignment of appropriate pay grades that reflect prevailing wage as mandated by C.R.S. 24-50-104(1)(a). The state personnel director has delegated authority for system studies to the Division of Human Resources (hereafter "the division").

This study of the Administrative Law Judge (ALJ) class series was conducted to address concerns and issues raised by two departments using this class series. A desire to add a developmental or first working level, below the current fully operational level, was relayed. In addition, this class series is not a market survey benchmark, which means the division does not receive market salary data on an annual basis to validate state salaries for positions in this class. Since user departments requested some possible changes, no local market salary data is available, and no study has been completed on this class series in a number of years, the division conducted this study of the series.

#### **METHODOLOGY**

This second part of the study was the panel evaluations of all current positions in these classes and the finalization of the pay grade for each class once the class concepts were validated. The class

description was also updated with the comments and suggestions received from the first meet and confer on the proposed classes.

## **ISSUES AND FINDINGS**

The results of the initial phase of the study were the new class descriptions that were published in JEL 05-03 on January 20, 2005. A meet and confer on that proposal was held on January 31, 2005, to receive comments and suggestions from employees and employee organizations. One employee attended that session and presented the views of several of his colleagues. One written input was received from three incumbents in the Industrial Claim Appeals Office. It is also noted that a letter was received from a private practice attorney.

Based on the inputs received from the meet and confer process, the study team recommended that several changes be made to the class description. The table below reflects those changes, most of which are included in the new concept for the administrative magistrate.

<b>New class</b>	<b>Concept</b>
ALJ I	Administrative magistrate level jobs; pre-hearing assignments (motions, settlements & mediations)
ALJ II	Full operating assignments for full “merit” hearings, ICAP reviews, or limited supervisory positions.
ALJ III	Complete unit supervisor or supervision with a tradeoff for regional office management responsibility.

Because the new class concepts differed from the prior classes, the study was modified to include the placement of all positions into the new classes. This was necessary because simple conversion of positions from the old classes to the new would not be accurate and some positions would have been misplaced. The study team completed their evaluations of all positions in the current Administrative Law Judge classes. The results of those placements have been shared with the three departments’ appointing authorities and are included in the last section of this narrative. Each incumbent was informed of the results of the evaluation of their PDQ. Those placement results are proposed to be implemented concurrently with the implementation of the new class description from this study on July 1, 2005. The resulting placements are not appealable in accordance with Director’s Administrative Procedure P-2-2.

## **PAY GRADE ASSIGNMENT**

Following the finalization of the class description based on the meet and confer results, and the fact that the class placements re-validated the proposed factor levels for the individual classes, the division’s compensation unit next completed its salary review. As part of this review, a copy of the most recent (2003) nationwide, judicial salary survey by The National Center for State Courts (NCSC) was obtained. This same survey is frequently used by Colorado’s Judicial Department for salary comparison purposes. The analysis of the NCSC salary data (projected to 7/1/05) showed that the average annual salary for district court judges nationally is \$109,810, compared to Colorado’s projected district court judge’s annual salary of \$104,637.

As authorized by statute, the division also surveyed other states to obtain salary information on two levels of administrative law judges and on hearing/appeal referees. (The hearing/appeals referee levels were obtained only to distinguish them from ALJ classes as some states use the terms interchangeably.) Fourteen states responded to the request, but only 12 had matching classes that could be used for further analysis. Because the salary information from the direct survey was obtained in 2004, the division appropriately aged the data forward to July 2005 so as to have comparable salary data for a comparison with the NCSC data.

The salary information from the 12 other states showed that, on average, they set their ALJ salary levels approximately 36% lower than their district court judges' salaries. Colorado's ALJ I salary is approximately 25% lower than district court judges' salaries. At first look, it appears that our ALJ salaries are approximately 11% high in relation to our district court judges' salaries, but the division questioned the salary level of our district court judges' salaries in comparison with other occupations' salaries. From the NCSC report, Colorado's district court judges' salaries were ranked 35<sup>th</sup> nationally. This is in stark contrast with U.S. DOL's BLS data that typically shows Colorado salaries to be ranked 7<sup>th</sup> to 12<sup>th</sup> nationally. Taken together, the above market salary data was judged to be inconclusive, perhaps contradictory.

In situations where market salary data is non-existent or unreliable, employers will rely on internal equity in setting salary levels. This method of setting and managing compensation levels is a longstanding practice by employers, particularly those in the public sector as reported in books (New Strategies for Public Pay, Fisher & Fay, 1997) and national articles. An employer's decision on internal equity is made on a policy basis and the state personnel director is the appropriate person to make such decisions in the state personnel system. The state personnel director determined that for internal equity purposes, setting the salary level for the full merit ALJ should be kept at the current ALJ II level (grade H58), that is approximately 20% below the salary level of the Judicial Department's county judges. Therefore, the salary grade recommended for the new ALJ II (full merit) is H58 (range of \$5449 - \$8338/month).

Lacking any market salary information to the contrary, the state personnel director also decided that the historical difference between the three ALJ classes (one grade or approximately 2½ %) should be maintained in the new class series. Therefore the proposed pay grades to be assigned to the ALJ I, II, and III classes will be H57, H58, and H59 respectively. Final pay grade assignments will be published with the final publication of this study and will also be effective July 1, 2005.

In accordance with the Director's Administrative Procedures, system maintenance studies are implemented on a "dollar-for-dollar" basis where the employee's current salary remains unchanged when a class or position is moved to a new grade. If current salaries are above the maximum of the new grade, employees maintain their current salary for up to three years as authorized by C.R.S. 24-50-104(1)(e). However, implementing the class placements into the proposed classes can be implemented with no saved pay situations occurring; therefore, the saved pay provision is moot. Even though some positions will be placed in a higher pay grade, there will be no fiscal impact as defined in C.R.S. 24-50-104 (6)(a).

## **MEET AND CONFER ON PROPOSED RESULTS**

C.R.S. 24-50-104(1)(b) requires the division to meet and confer with affected employees and employee organizations, if requested, regarding the proposed changes before they are implemented as final. In an effort to proactively facilitate this process, a public meeting is scheduled for Monday, June 6<sup>th</sup>, 2005, at 3:00 p.m., in room 220 at 1313 Sherman St., Denver. The official deadline by which all "meet and confer" activity must conclude on these proposed changes is on Thursday, June 9<sup>th</sup>, 2005, in order to implement the recommendations on July 1, 2005.

## RECOMMENDATIONS

### I. Occupational Group

No change is recommended. These classes remain in the Professional Services Occupational Group.

### II. Class Descriptions

Because the proposed class description was previously published, it is not re-published with this JEL. The final class description will be published with the final JEL before July 1, 2005.

### III. Class Conversion and/or Placement

Class placement is the movement of positions in the former class to the appropriate new class for the purpose of realigning and maintaining the accuracy of the job evaluation structure. Class placement is based on the panel evaluation of Position Description Questionnaires. Class placement will occur as part of this study and the results are published below. The placement results will be implemented on July 1, 2005 also.

CLASS PLACEMENT – Administrative Law Judges											
IDENTITY		FORMER			NEW						
Dept	Pos. #	Code	Class Title	Grd	Code	Class Title	D	C	PC	LS	Grd
AIA	Panel Members: Travis Engelhardt, Chair; Monica Cortez-Sangster, Yvonne Rico, Andrew Gale, Michelle Pedersen, Don Fowler										
	2	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	5	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	7	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	10	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	12	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	16	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	19	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	34	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	35	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58

CLASS PLACEMENT – Administrative Law Judges											
IDENTITY		FORMER			NEW						
Dept	Pos. #	Code	Class Title	Grd	Code	Class Title	D	C	PC	LS	Grd
	40	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	44	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	114	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	116	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	127	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	4	H5A3XX	ADMIN LAW JUDGE II	H58	H5L3XX	ADMIN LAW JUDGE III	4	3	10	2	H59
	18	H5A3XX	ADMIN LAW JUDGE II	H58	H5L3XX	ADMIN LAW JUDGE III	4	3	10	3	H59
	3	H5A4XX	ADMIN LAW JUDGE III	H59	H5L3XX	ADMIN LAW JUDGE III	3	3	10	3	H59
	14	H5A4XX	ADMIN LAW JUDGE III	H59	H5L3XX	ADMIN LAW JUDGE III	4	3	10	4	H59
	36	H5A5XX	ADMIN LAW JUDGE IV	H63	H5L3XX	ADMIN LAW JUDGE III	3	3	10	4	H59
<b>ARA</b>	Panel Members: Travis Engelhardt, Chair; Monica Cortez-Sangster, Yvonne Rico, Andrew Gale, Michelle Pedersen, Don Fowler										
	7001	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	7002	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	7003	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
<b>KAA</b>	Panel Members: Travis Engelhardt, Chair; Monica Cortez-Sangster, Yvonne Rico, Andrew Gale, Michelle Pedersen, Don Fowler										
	3058	H5A2TX	ADMIN LAW JUDGE I	H57	H5L1TX	ADMIN LAW JUDGE I	3	2	10	1	H57
	3059	H5A2TX	ADMIN LAW JUDGE I	H57	H5L1TX	ADMIN LAW JUDGE I	3	2	10	1	H57
	3075	H5A2TX	ADMIN LAW JUDGE I	H57	H5L1TX	ADMIN LAW JUDGE I	3	2	10	1	H57
	3988	H5A2TX	ADMIN LAW JUDGE I	H57	H5L1TX	ADMIN LAW JUDGE I	3	2	10	1	H57
	1485	H5A3XX	ADMIN LAW JUDGE II	H58	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	1517	H5A3XX	ADMIN LAW JUDGE II	H58	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	2442	H5A3XX	ADMIN LAW JUDGE II	H58	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	3546	H5A3XX	ADMIN LAW JUDGE II	H58	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	3775	H5A3XX	ADMIN LAW JUDGE II	H58	H5L2XX	ADMIN LAW JUDGE II	3	2	10	2	H58
	1477	H5A4XX	ADMIN LAW JUDGE III	H59	H5L3XX	ADMIN LAW JUDGE III	4	3	10	3	H59
<b>SGA</b>	Panel Members: Travis Engelhardt, Chair; Monica Cortez-Sangster, Yvonne Rico, Andrew Gale, Michelle Pedersen, Don Fowler										
	5080	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	5087	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58

CLASS PLACEMENT – Administrative Law Judges											
IDENTITY		FORMER			NEW						
Dept	Pos. #	Code	Class Title	Grd	Code	Class Title	D	C	PC	LS	Grd
	5089	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	35024	H5A2TX	ADMIN LAW JUDGE I	H57	H5L2XX	ADMIN LAW JUDGE II	3	3	10	1	H58
	5020	H5A4XX	ADMIN LAW JUDGE III	H59	H5L3XX	ADMIN LAW JUDGE III	3	3	10	3	H59
	5145	H5A4XX	ADMIN LAW JUDGE III	H59	H5L3XX	ADMIN LAW JUDGE III	3	3	10	3	H59

AIA = Division of Administrative Hearings

ARA = State Personnel Board

KAA = Division of Workers' Compensation

SGA = Public Utilities Commission